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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,591	11/13/2003	Jason A. Demers	1062/E06	1992
2101	7590	10/02/2006	EXAMINER	
BROMBERG & SUNSTEIN LLP 125 SUMMER STREET BOSTON, MA 02110-1618			MANOHARAN, VIRGINIA	
			ART UNIT	PAPER NUMBER

1764

DATE MAILED: 10/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/713,591

Applicant(s)

DEMERS ET AL.

Examiner

Virginia Manoharan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 16-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 37-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

Applicants' election of Group I, claims 1-15 and 37-42 in the reply filed on July 24, 2006 is acknowledged. Because applicants did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors, e.g., typographical, grammar, idiomatic, syntax and etc. Applicants' cooperations are requested in correcting any errors of which applicants may become aware in the specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12, 38 and 42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a). Claims 12 and 42, as recited, are in improper Markush language. ---Wherein R is A, B or C---and Wherein R is selected from a group consisting of – would both constitute proper Markush languages.

b). The claimed “configured” in claim 38 is superfluous especially since the configuration in terms of structure has not been specified.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-15 and 37-42 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims of 1-18, 25 and 35 copending Application No. 10/713,617 in view of Kraner (6,497,555). Although the conflicting claims are not identical, they are not patentably distinct from each other because the subject matter of the instant claims is covered in the claims of the co-

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pending application and vice-versa. Also the instant claim 1 recites in section e) of claim 1 "an electric motor having a motor rotor and motor magnets to power the drive shaft wherein the motor rotor and magnets are hermetically sealed within a liquid fluid pressure boundary of the liquid ring pump", not recited in the above co-pending application. However, Kraner suggests that the above claimed electric motor is known in the art. See col. 1, lines 45-51.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-15 and 37-42 are provisionally rejected on the ground of nonstatutory double patenting over claims 1-18, 25 and 35 of copending Application No. 10/713,617. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: a liquid distillation system comprising: an input for receiving untreated liquid; a vaporizer coupled to the input for transforming the liquid to vapor; a head chamber for collecting vapor from the vaporizer; a pump comprising an internal drive shaft; and an eccentric rotor with a rotatable housing; and a condenser in communication with the vapor pump for transforming compressed vapor into a distilled liquid product.

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Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8, 10-13, 15 and 37-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mugele (5,169,502) or Keller (3,807,912) in view of Kraner (6,497,555).

Either Mugele or Keller discloses substantially the apparatus as claimed including a liquid distillation system comprising an input for receiving untreated liquid; a vaporizer coupled to the input for transforming the liquid to vapor; a head chamber for collecting vapor from the vaporizer a vapor pump for compressing the vapor; and a condenser in communication with the vapor pump for transforming compressed vapor into a distilled liquid product. It would have been obvious to one of ordinary skill in the art to modify the apparatus of Mugele or Keller to include "an electric motor having a motor rotor and motor magnets to power the drive shaft wherein the motor rotor and magnets are hermetically sealed within a liquid fluid pressure boundary of the liquid ring pump" as claimed in section e) of claim 1, as such is known in the art as taught by Kraner. See col. 1, lines 45-51.

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Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mugele (5,169,502) or Keller (3,807,912) as modified by Kraner (6,497,555) as applied to claims 1-8, 10-13,15 and 37-42 above, and further in view Trusch (4,316,774) or Kikkawa et al (4,437,933).

It would have been obvious to one of ordinary skill in the art, at the time the invention, was made to pass the fluid being processed to pre-treatment means as such is conventionally done in the art as taught by either Trusch or Kikkawa in order to obtain a more desired purified product.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mugele (5,169,502) or Keller (3,807,912 in view of) as modified Kraner (6,497,555) as applied to claims 1-8, 10-13,15 and 37-42 above, and further in view of Sneed et al (3,603,082) or Straka (5,761,903).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to couple a clean-burning generator to the system and method of distilling a liquid in either of the primary references in the manner as taught by Sneed et al or Straka in order to obtain the advantages suggested e.g., at col. 3, lines 32-45 in Straka; and at col. 6, lines 24-33 in the Sneed et al reference.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

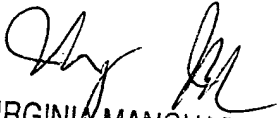
- a). Brasz and de Cachard et al both disclose devices with eccentric rotors.
- b). Van Collie et al discloses a pump with integrated vapor recovery.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to V. Manoharan whose telephone number is (571) 272-1450.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (571) 272-1444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
VIRGINIA MANOHARAN  
PRIMARY EXAMINER  
ART UNIT 1321764